

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,
Plaintiff,

v.

CIVIL ACTION NO. 3:17-01362

AMERISOURCEBERGEN
DRUG CORPORATION, et al.,
Defendants.

CABELL COUNTY COMMISSION,
Plaintiff,

v.

CIVIL ACTION NO. 3:17-01665

AMERISOURCEBERGEN
DRUG CORPORATION, et al.,
Defendants.

DISCOVERY RULING

The undersigned has received Defendant AmerisourceBergen Drug Corporation's Motion to Compel (Dkt. 430), as well as related exhibits. The undersigned has also received and reviewed the Opposition (Dkt. 480) filed by the West Virginia Bureau for Children and Families ("BCF"), and the Reply filed by Defendant. Having reviewed carefully the parties' positions, the Special Master now enters the following discovery ruling.

Priority Requests

Defendant seeks an order compelling the production of certain categories of documents, which Defendant maintains are of particular relevance given Plaintiffs' allegations. The Motion shall be granted with respect to the following Requests:

1. *All Communications between You and Plaintiffs discussing, referring, or relating to the prescribing, dispensing, use, misuse, abuse, sale, diversion, production, distribution, or trafficking of Prescription Opioids or Illicit Opioids within or into the City of Huntington, Cabell County, or any town, village, or city within Cabell County.*

2. *All Documents discussing, referring, or relating to any Defendant, including but not limited to, all Communications or transactions between You or Plaintiffs and any Defendant, manufacturer, distributor, or dispenser of Prescription and Illicit Opioids.*

3. *All Documents discussing, referring, or relating to Your or Plaintiffs' knowledge of the prescribing, dispensing, use, misuse, abuse, sale, diversion, production, distribution, or trafficking of Prescription Opioids or Illicit Opioids within or into the City of Huntington, Cabell County, or any town, village or city within Cabell County.*

7. *All Documents referring to or relating to the unlawful use, misuse, abuse, sale, diversion, production, transportation, distribution, purchase and/or trafficking of Prescription or Illicit Opioids or other opioids within or into the City of Huntington, Cabell County, or any town, village, or city within Cabell County.*

9. *All Documents that describe, discuss, relate to, analyze, or refer to the impact on You, or anyone acting on Your behalf, of the use and abuse of opioids, including but not limited to, any harm suffered by any and all individuals residing within Cabell County or the City of Huntington, that are, or have been, attributed in whole or in part to the abuse, use, or misuse of Prescription or Illicit Opioids, or the abuse, use, or misuse of other opioids.*

13. *All Documents and Communications identifying, discussing, or relating to pill mills in the City of Huntington, Cabell County, or any town, village or city within Cabell County.*

15. *All Documents sufficient to identify, by year and for each program or service that You provide, (a) the number of individuals in Cabell County or the City of Huntington to whom You provided services because they, or someone closely associated with them or related to them have an opioid use disorder resulting from using Illicit Opioids, and the amount You were paid by Cabell County or the City of Huntington for those services; (b) the number of individuals in Cabell County or the City of Huntington to whom You provided services because they, or someone closely associated with them or related to them have an opioid use disorder resulting from the misuse or abuse of Prescription Opioids, and the amount You were paid by Cabell County or the City of Huntington for those services; (c) the number of individuals in Cabell County or the City of Huntington to whom You provided services because they, or someone closely associated with them or related to them have a drug addiction that does not involve opioids, and the amount You were paid by Cabell County or the City of Huntington for those services; and (d)*

the number of individuals in Cabell County or the City of Huntington to whom You provided services because they, or someone closely associated with them or related to them have a substance abuse problem or addiction that does not involve drugs, and the amount You were paid by Cabell County or the City of Huntington for those services.

17. All Documents relating to the impact of Prescription or Illicit Opioids on children, including newborns, in the City of Huntington and Cabell County.

29. All Documents relating to any efforts by You to reduce the number of Prescription Opioids, Illicit Opioids, or opioid prescriptions in the State of West Virginia.

34. All Documents reflecting direct, indirect, and monetary costs and expenses You or any Plaintiff has incurred that You attribute to the opioid abuse epidemic or the use, misuse or abuse of Prescription Opioids or Illicit Opioids in the City of Huntington, Cabell County, or any town, village or city within Cabell County.

BCF is ordered to produce all documents in its possession, custody or control which are responsive to these Requests by not later than June 19, 2020.

Custodial Searches

In Request No. 28, Defendant demanded that BCF produce relevant documents contained in the custodial files of certain individuals Defendant believes are likely to possess discoverable information. *See* Defendant's Request No. 28 (ECF No. 430-1 at 18). By letter dated May 11, 2020, Defendant supplied BCF with a list of search terms to be applied to these custodians' files. *See* Defendant's May 11, 2020 Letter (ECF No. 430-2 at 33-36). BCF has not objected to applying those terms to the below named custodial files. The Motion shall be granted with respect to Defendant's request for custodial files and BCF shall apply the search terms referenced in Defendant's May 11, 2020 Letter to the custodial files of the following individuals:

- ***Lance Whaley***
- ***Janice McCoy***
- ***Beverly Koerber***
- ***Tina Mitchell***
- ***Linda Watts***
- ***Nancy Exline***

- *Jim Weekely*
- *Greg Shavers*
- *Janie Cole*
- *Monica Hamilton*
- *Laura Bamo*
- *Sue Hage*
- *Jean Sheppard*
- *Melanie Urquhart*
- *Bea Bailey*
- *Kristina Wandzel*

BCF shall produce documents identified by these searches by not later than June 19, 2020.

FACTS Files

In subpoena Request No. 8, Defendant seeks:

8. All Documents relating to any law enforcement, child endangerment, child removal, or administrative investigations, prosecutions, and/or enforcement actions relating to Prescription or Illicit Opioids or other opioids in Cabell County or the City of Huntington.

BCF has confirmed that it maintains foster care placement and removal case files on its Families and Children Tracking System (“FACTS”), which contains information responsive to this Request. Defendant has agreed to narrowly tailor this request by demanding production of only the following documents from the case files: 1) intake forms or removal reports that reflect the reason for the juvenile or child’s removal and what drugs, if any, were the cause for removal; and 2) information reflecting if a parent of the subject child or juvenile had a history of drug use that attributed to the removal.

BCF shall produce these documents by not later than June 19, 2020.

RESPECTFULLY SUBMITTED,

Dated: _____

Special Master